IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

WP(C).No. 35687 of 2007(W)

PETITIONER:

S.KOLAPPAN ACHARY,S/O. K.SIVA THANU ACHARY, AGED 41 YEARS, RESIDING AT TC NO. 39/1752-6 SOWPARNIKA, GNRA-18 A, GANGA NAGAR, MANACAUD,. THIRUVANANTHAPURAM.

BY ADV. SRI.R.S.KALKURA
SRI.M.S.KALESH
SRI.HARISH GOPINATH
SRI.V.VINAY MENON
SMT.KVP.JAYALEKSHMY
SRI.M.AJAY (IRUMPANAM)

RESPONDENTS:

1. THE AUTHORISED OFFICER,UCO BANK, THIRUVANANTHAPURAM BRANCH, NEAR OVER BRIDEGE THIRUVANANTHAPURAM-695 001.

2. THE UCO BANK,REPRESENTED BY ITS BRANCH MANAGER,THIRUVANANTHAPURAM BRANCH, NEAR OVER BRIDGE,THIRUVANANTHAPURAM 695 001.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

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W.P.(C) No. 35687 OF 2007 W

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Dated this the 10th December, 2007

J U D G M E N T

The proceedings initiated against the petitioner under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 is under challenge and it is stated by Standing Counsel that till now physical possession has not been taken over by the Bank. Petitioner only requests that he be given an opportunity to discharge the liability by paying the amount due in instalments.

2. I heard the Standing Counsel for the Bank in this regard. Since the Bank is only interested in realising the debt, understandably the Bank is not against the petitioner discharging the liability even at this stage. However, the Bank requests that in the event the petitioner defaults even after allowing an instalment facility the Bank should be permitted to proceed further on Ext. P3 itself.

3. Having regard to the facts that have been projected I dispose of this writ petition with the following directions:

That the amount due to the respondent Bank shall be paid off by the petitioner in 10 equal monthly instalments, the 1st of which will be payable on 1.1.2008 and the subsequent instalments will be payable on the first of every succeeding month. Subject to payment as above, further proceedings pursuant to Ext. P3 shall be deferred by the Bank. It is clarified that if the petitioner commits default in any one of the instalments, the Bank will be entitled to proceed further with Ext. P3.

ANTONY DOMINIC
JUDGE

jan/-